

EXHIBIT 1

Virginia Newell

November 15, 2005

Charlotte, NC

1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CERTIFIED COPY

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IN RE PHARMACEUTICAL INDUSTRY : MDL No. 1456

AVERAGE WHOLESALE PRICE :

LITIGATION : CIVIL ACTION:

----- 01-CV-12257-PBS

THIS DOCUMENT RELATES TO :

ALL CLASS ACTIONS : Judge Patti B.

-----X Saris

Deposition of VIRGINIA NEWELL, taken by the
Defendant, at Robinson, Bradshaw, Hinson, 101 North
Tryon Street, Charlotte, North Carolina, on the 15th
day of November, 2005, at 11:20 a.m., before Jackie
Johnson, Court Reporter and Notary Public.

Reported by: Jackie Johnson

Court Reporter, Notary Public

Henderson Legal Services
(202) 220-4158

Virginia Newell

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Charlotte, NC

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1 MS. PRINZO: Let me restate it.

2 BY MS. PRINZO:

3 Q. Are you hoping to lower the price of drugs?

4 A. That's not my objective. I just would like
5 to -- I don't think I can. I'd just like to
6 represent the people who have been overcharged.

7 Q. Are you hoping to get monetary damages?

8 A. No.

9 Q. When you say you're hoping to represent the
10 people who were overcharged, is there anything that
11 you're hoping to obtain for them? Is there anything
12 you're hoping to obtain for them?

13 A. I can't think of -- no, I don't want to
14 obtain anything for them. I just think it's unfair
15 that we've all been overcharged, and if they can --
16 if we can do anything to reduce, for future people
17 who are in this situation, if they can cut the costs
18 somehow for them.

19 Q. So when you say overcharged, you're
20 referring to paying an expensive amount for drugs?

21 A. Yes.

22 Q. Are you asserting that there's any fraud in

Virginia Newell

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1 this case?

2 A. I can't answer that. I don't know.

3 Q. Have you or your husband ever had any
4 relationship with any drug manufacturer?

5 A. No.

6 Q. Have you or your husband had any contact
7 with any drug manufacturer?

8 A. No.

9 Q. Have you or your husband ever called any
10 drug manufacturers' customer service line?

11 A. I don't recall.

12 Q. Have you authorized your lawyers in this
13 case to obtain your husband's medical records?

14 A. I think I gave my permission.

15 Q. Have you authorized the lawyers in this
16 case to obtain your husband's billing records?

17 A. Yes, I think so.

18 MS. PRINZO: Why don't we take a couple
19 minutes break, and I think we can wind up in the next
20 few minutes.

21 (Thereupon, a brief recess was taken,
22 after which the following proceedings

Virginia Newell

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1 were had:)

2 MS. PRINZO: Mrs. Newell, I just have a
3 couple more questions for you, and then I believe one
4 of the attorneys on the phone just has a few more.
5 So we should be wrapping up shortly.

6 BY MS. PRINZO:

7 Q. Are you familiar with the term least costly
8 alternative?

9 A. No.

10 MS. PRINZO: For the Record, I would just
11 like to request to depose someone who's familiar with
12 the billing statements, so we can get a better
13 understanding of these bills and the checks that Mrs.
14 Newell has produced.

15 MS. BENEDETTO: We'll take that under
16 advisement. Obviously, we differ as to whether or
17 not that's necessary, and certainly that that does
18 not excuse the Defendants, in our view, from having
19 to conclude the discovery by the 17th.

20 MS. PRINZO: And then we'd also reserve the
21 right to continue the deposition as soon as
22 additional documents are produced.

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EXHIBIT 2

FILED UNDER SEAL

EXHIBIT 3

FILED UNDER SEAL

EXHIBIT 4

FILED UNDER SEAL

EXHIBIT 5

James E. Shepley

November 11, 2005

Reno, NV

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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CERTIFIED COPY

IN RE PHARMACEUTICAL MDL No. 1456

INDUSTRY AVERAGE PRICE

LITIGATION

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

DEPOSITION OF

JAMES E. SHEPLEY

Friday, November 11, 2005

Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

Henderson Legal Services
(202) 220-4158

James E. Shepley

November 11, 2005

Reno, NV

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1 you received was purchased from your doctor?

2 MR. HAVILAND: Objection to the form.

3 THE WITNESS: No.

4 MR. HAVILAND: Vague. Are you asking
5 whether he bought it, bought it from the doctor?
6 I'm just not clear about that question. You said
7 purchased.

8 MS. LAWSON: Mr. Shepley has testified
9 that he doesn't know whether he made any payments
10 for it, so I'm just asking.

11 BY MS. LAWSON::

12 Q Do you know whether the doctor owned the
13 medication he was giving to you, do you know that?

14 A No.

15 Q Either for Zoladex or Lupron?

16 A I don't know.

17 Q So you don't know, we can all assume that
18 any Lupron or Zoladex that you were given, somebody
19 had to pay for it somewhere along the lines,
20 correct?

21 MR. HAVILAND: Objection to the form.

22 THE WITNESS: Yes.

James E. Shepley

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Reno, NV

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1 BY MS. LAWSON:

2 Q And it had to be, there had to be a buyer
3 and a seller; is that consistent with your
4 understanding?

5 A Yes.

6 Q And for Zoladex or Lupron, do you know
7 during the time period you were given either, so we
8 can say 1991 to today, do you know for any time
9 period who the seller and buyer of Zoladex or
10 Lupron --

11 A I don't know.

12 Q -- that was given to you?
13 Do you know whether this lawsuit and the
14 group of plaintiffs on whose behalf this lawsuit is
15 being asserted, do you know whether that's limited
16 to people in the state of Nevada?

17 A I don't know.

18 Q Just to make the record clear, do you know
19 whether people in the state of Illinois are included
20 as plaintiffs in this case?

21 A I don't know.

22 Q Last question on this topic. Do you know

James E. Shepley

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1 whether people from the state of Massachusetts are
2 included?

3 A I don't know.

4 Q It's a slightly different topic. Do you
5 know whether insurance companies are included as
6 plaintiffs in this lawsuit?

7 A I don't know.

8 Q Does Medicare -- withdrawn.

9 When you receive a drug in a physician's
10 office, so when the physician administers it, as
11 opposed to getting a prescription and buying it in a
12 retail pharmacy, when you receive a drug in a
13 physician's office, does Medicare pay the physician
14 for that?

15 A I don't know.

16 Q So I'll assume -- if we -- withdraw that.

17 Do you know how it is that Medicare
18 determines what it will pay your doctors?

19 A No, I don't.

20 Q What about United American, do you know
21 how it determines what it will pay your doctors?

22 A No.

James E. Shepley

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1 expensive than Zoladex?

2 A No.

3 Q So is it fair to say that the price of
4 Lupron relative to the price of Zoladex -- I see
5 your lawyer shaking his head already.

6 MR. HAVILAND: You just lost your
7 foundation.

8 BY MS. LAWSON:

9 Q You have testified you prefer Lupron?

10 A Yes.

11 Q Is price a reason why you prefer Lupron?

12 MR. HAVILAND: Asked and answered.

13 THE WITNESS: No.

14 BY MS. LAWSON:

15 Q If Zoladex were cheaper than Lupron, would
16 you switch to Zoladex?

17 MR. HAVILAND: Calls for speculation.

18 THE WITNESS: I don't know.

19 BY MS. LAWSON:

20 Q I think, I'm pretty sure you have already
21 testified that you have not discussed with any of
22 your doctors the cost of Zoladex or Lupron, right?

James E. Shepley

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Reno, NV

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1 A That's right. Yes.

2 Q If, when I asked you if you would switch
3 to Zoladex if it was cheaper than Lupron, your
4 answer was "I don't know," right?

5 A Yes.

6 Q So if you might switch if it's cheaper,
7 how come you haven't asked your doctor?

8 MR. HAVILAND: Speculation, argumentative.

9 Can you answer that?

10 THE WITNESS: Like I said, I prefer
11 Zola -- or Lupron.

12 BY MS. LAWSON:

13 Q That's fine. I'm just trying to make, get
14 clear, is you prefer Zol -- I'm sorry, I did the
15 same thing. Let me rephrase, say that again.

16 I'm just trying to make clear. What I
17 understand you to be saying is that you prefer
18 Lupron because you think it treats your prostate
19 cancer better and you prefer the injection over the
20 Zoladex abdominal injection?

21 A Yes.

22 Q Is it correct that you prefer Lupron

James E. Shepley

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Reno, NV

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1 irrespective of the price?

2 A Yes.

3 MR. HAVILAND: Objection to form.

4 BY MS. LAWSON:

5 Q So even if Lupron is more expensive than
6 Zoladex, you still prefer it.

7 A Yes.

8 MS. LAWSON: I have no further questions.

9 MR. HAVILAND: Mr. Shepley, I just have
10 one question for you.

11 EXAMINATION

12 BY MR. HAVILAND:

13 Q The document that was put in front of you,
14 this Shepley 1, you were asked some questions about
15 that earlier.

16 A Yes.

17 Q Do you have another document at home that
18 is a bigger document than this that you have
19 reviewed?

20 A Yes.

21 Q So were you confused when you were asked
22 questions about this particular document?

James E. Shepley

November 11, 2005

Reno, NV

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1 A Yes, I thought this was different.

2 Q Okay. I just want to be clear about this.

3 A Yes. I thought this was a different one.

4 MS. LAWSON: Because this one is double
5 sided and so thinner?

6 THE WITNESS: I think so.

7 MS. LAWSON: I just have a couple of more
8 questions.

9 FURTHER EXAMINATION

10 BY MS. LAWSON::

11 Q Did you, your version of the complaint,
12 which isn't double sided like mine, I was trying to
13 save some trees and my back --

14 MR. HAVILAND: Very admirable of you.

15 BY MS. LAWSON:

16 Q -- and my back from carrying it. Your
17 version of the complaint, did you read it?

18 A No.

19 Q Did you read any part of it?

20 A Yes.

21 Q What part did you read?

22 A The first part.

EXHIBIT 6

Anna Choice

November 10, 2005

Chicago, IL

1

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

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CERTIFIED COPY

5 IN RE PHARMACEUTICAL INDUSTRY

6 AVERAGE WHOLESALE PRICE MDL No. 1456

7 LITIGATION

8) CIVIL ACTION:

9 THIS DOCUMENT RELATES TO 01-CV-12257-PBS

10 ALL CLASS ACTIONS

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13 The discovery deposition of

14 ANNA CHOICE, taken in the above-entitled case,

15 before Karyn Chalem, CSR, RPR, on the 10th day of

16 November, 2005, at 1:35 o'clock p.m. at the offices

17 of Hagens, Berman, Sobol & Shapiro, 60 West

18 Randolph Street, Suite 200, Chicago, Illinois,

19 pursuant to agreement of counsel.

20

21 Reported by: Karyn H. Chalem

22 License No.: 084-004167

Henderson Legal Services
(202) 220-4158

Anna Choice

November 10, 2005

Chicago, IL

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1 inflated?

2 MS. FEGAN: Objection, calls for
3 speculation. You can answer if you know.

4 THE WITNESS: No, I don't know.

5 BY MR. DOVE:

6 Q Have you ever asked your insurance
7 company why they're continuing to make payments
8 based on AWP?

9 A No, I don't.

10 Q And have you ever asked your union
11 why they're continuing to make payments based on
12 AWP?

13 A No, I have not.

14 Q Ms. Choice, what claims have you
15 brought against the defendants in this case?

16 A What do you mean "what claims"?

17 Q What allegations, what charges?

18 A You mean personally?

19 Q Yeah. I mean, what are you accusing
20 the defendants of, if you know?

21 A As far as I know, it's the medicine,
22 the overcharge of the medicine.

Anna Choice

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Chicago, IL

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1 Q Other than the overcharge of the
2 medicine, are there any other claims that -- that
3 you believe you're making against the defendants in
4 this case?

5 A No.

6 Q And what's the basis for your
7 understanding that -- strike that.

8 What's the basis for your allegation
9 that defendants are overcharging for medicine? Why
10 do you think that?

11 A Me personally, I don't know exact
12 amounts of what medicine is supposed to cost, but
13 I'm assuming my union does. So I consider myself
14 trying to help them and, you know, maybe other
15 people that didn't want to come forth or other
16 people that, you know, they couldn't get in touch
17 with or whatever, you know, to help.

18 Q Are you making claims based on your
19 payment for certain medications?

20 A Me personally making claims against
21 them?

22 Q Yes.

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Anna Choice

November 10, 2005

Chicago, IL

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1 A Well, I do think they charge too
2 much for medicine. Which specific one, I don't
3 know, but I really do think they do charge too much
4 for medicine.

5 Q And when you say they charge too
6 much for medicine, you mean the doctors or -- who
7 are charging for medicine?

8 MS. FEGAN: Objection, form. You
9 can answer.

10 THE WITNESS: Well, I'm assuming the
11 doctors, they have their amount that they have to
12 pay to you all's client, and then maybe they might
13 put a little more in it. I don't know.

14 MR. DOVE: Off the record.

15 (Off record discussion.)

16 MR. DOVE: Go back on the record,
17 please.

18 BY MR. DOVE:

19 Q Ms. Choice, I'd like to show you a
20 document titled Third Amended Master Consolidated
21 Class Action Complaint Amended to Comply with
22 Court's Class Certification Order, Redacted

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Anna Choice

November 10, 2005

Chicago, IL

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1 Version, and I'd ask if you've seen this document
2 before.

3 A Yes, I have.

4 Q And when is the first time you saw
5 this document?

6 A I want to say maybe a month ago.
7 Maybe about a month ago.

8 Q And did anyone ask you whether the
9 information contained in this document is correct?

10 A No. They asked me to read it.

11 Q So they asked you to read it, but
12 did they ask you whether the information contained
13 in the document is correct?

14 MS. FEGAN: I'm just going to
15 object. To the extent that questions were asked by
16 your attorney, I'm going to instruct you not to
17 answer.

18 If you want to ask her if that
19 information is correct, that's a different
20 question, but I think you're using the word "they"
21 vaguely to get at attorney-client privilege
22 information, and I'm going to instruct you not to

Anna Choice

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Chicago, IL

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1 MS. FEGAN: Objection, asked and
2 answered. You can answer.

3 THE WITNESS: What was the basis?

4 BY MR. DOVE:

5 Q Why -- I guess I'm a little -- I
6 mean, it sounds to me like you're not sure what AWP
7 is. Is that correct?

8 A I remember reading, but I forgot
9 what it meant.

10 Q And I guess my question for you is:
11 How do you know that the amounts you paid were
12 based on AWP?

13 A As far as my insurance papers go, I
14 guess it's from that, you know, the bills that I
15 was sent.

16 Q I mean, did somebody tell you that
17 the amounts you paid were based on AWP?

18 MS. FEGAN: I'm going to object. To
19 the extent that you had conversations with counsel
20 specifically regarding AWP or your bills, I'm going
21 to instruct you not to answer. If you relied on
22 what counsel told you, you can tell him that, but

Anna Choice

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Chicago, IL

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1 please don't go into the conversations themselves.

2 THE WITNESS: I rely what my counsel

3 said.

4 BY MR. DOVE:

5 Q So you said you relied on what
6 counsel told you. I take it, then, that, you know,
7 the statement "the amounts she paid were based on
8 AWP," that's not based on your own personal
9 knowledge. Is that correct?

10 A I rely on what my counsel tells me.

11 Q Earlier in the paragraph, it states
12 that from 2000 through 2005, Ms. Choice paid
13 out-of-pocket amounts for Rubex, BMS in
14 parentheses, comma, Zofran, GSK in parentheses,
15 comma, Cytoxan, BMS in parentheses, comma, Heparin,
16 comma, Dexamethasone Sodium, comma, and Taxotere,
17 Aventis in parentheses, period.

18 Do you see that statement?

19 A Sure. Yes, I do.

20 Q What is your basis for believing
21 that you paid out-of-pocket amounts for those
22 drugs?

Anna Choice

November 10, 2005

Chicago, IL

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1 A These were on the bills that were
2 sent to me.

3 Q So I understand they were on the
4 bills that were sent to you. What is the basis for
5 your assertion that you paid out-of-pocket amounts
6 for those drugs?

7 MS. FEGAN: Objection, asked and
8 answered, but you can answer again.

9 THE WITNESS: As far as I know, I
10 did, from the bills that were sent to me.

11 BY MR. DOVE:

12 Q And you paid those bills?

13 A Not all of them I've paid. I'm
14 still paying on them.

15 Q Do you know for which drugs you have
16 paid and for which drugs you're still paying on?

17 A No, I really don't.

18 Q Ms. Choice, when were you diagnosed
19 with cancer?

20 A 2000.

21 Q What type of cancer were you
22 diagnosed with?